



de maximis, inc.

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April 10, 2013

VIA ELECTRONIC & US MAIL

Mr. Anthony Cinque
State of New Jersey
Department of Environmental Protection
P.O. Box 028
Trenton, New Jersey 08625

**Re: *Response to April 4 Information Request*
 *Supplement to Waterfront Development Permit Application***

Dear Mr. Cinque:

On April 4, NJDEP requested the following information to issue a conditional approval of the Waterfront Development Permit for the River Mile 10.9 Time Critical Removal Action (RM 10.9 Removal Action) on the Lower Passaic River.

1. Letters from the treatment and disposal facilities for both sediment and decant water indicating that they are willing to accept and process or dispose sediments from the RM 10.9 Removal Area, and identifying the location where such sediment management will or may occur
2. Submittal of a "90% complete design document with signed/sealed engineering approval of drawings;" these can be tagged "90% Design in support of the NJ Waterfront Development Permit application process" or "Not for construction" if need be.
3. Statement or calculation with supporting data indicating that the cap's sand cover on top of its armoring layer has a roughness coefficient similar to or less than that of the existing sediment, further justifying the conclusion that the Removal Action will not increase flooding potential on the Passaic River
4. Supplement to the application's Compliance Statement covering Sub-chapter 10 of the Flood Hazard rules, providing general statements of compliance (e.g. "Release of contaminants via the Removal Action will be investigated by EPA-approved and EPA monitored procedures") or if the CPG believes a section does, a statement explaining why it does not

The CPG's responses to the Department's request follow.

Request 1: Attached are copies of acceptance letters from Clean Earth and Clean Harbors.

Request 2: Five (5) copies of signed and sealed design drawings, most extracted from Appendix D (Dredging Design Engineered Plan Drawings) of the draft Final Design Report are being hand delivered to your attention later today. This submittal also includes 2 new drawings showing post Removal Action area details. The draft Final Design Report has been in NJDEP's possession since February 27; it represents better than a 90% design report.

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The specific drawings that are being provided to the Department in full size and signed/sealed by an NJ Professional Engineer are as follows:

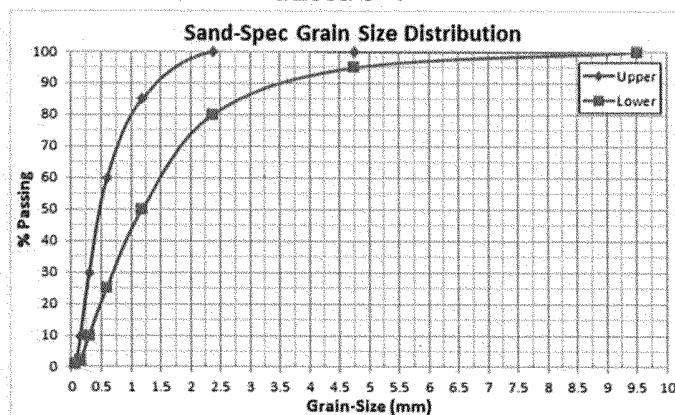
- Figure 1 – Topographic Map
- Figure 2 – Site Layout
- Figure 3A – Pre-Removal Area Details (Sheet 1 of 2)
- Figure 3B – Pre-Removal Area Details (Sheet 2 of 2)
- Figure 4A – Post-Removal Area Details (Sheet 2 of 2)
- Figure 4B – Post-Removal Area Details (Sheet 2 of 2)
- Figure 5A – Intertidal and Subtidal Areas (Sheet 1 of 2)
- Figure 5B – Intertidal and Subtidal Areas (Sheet 2 of 2)
- Figure 6A – Capping Cross Sections (Sheet 1 of 3)
- Figure 6B – Capping Cross Sections (Sheet 2 of 3)
- Figure 6C – Capping Cross Sections (Sheet 3 of 3)

Request 3: The RM 10.9 Removal Area cap will be smoother in terms of roughness than the existing sediment based on specifications for the sand cover, as follows.

The cap will be covered with "medium to coarse" sand (see following table and chart).

Sieve Size % Passing for sand to be used as top layer of cap at RM 10.9 Removal Area

3/8 in.	100
#4	95–100
#8	80–100
#16	50–85
#30	25–60
#50	10–30
#100	2–10
#200a	0–1



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Source of all Manning Coefficients used in the following analysis: United States Geological Survey (USGS, 1984) "Water-supply Paper 2339 - Guide for Selecting Manning's Roughness Coefficients"

- Firm soil in a stable channel and flood plain such as exists in the RM 10.9 Removal Area of the Lower Passaic River has a Manning roughness coefficient of 0.025 – 0.032.
- The sand specified for the RM 10.9 Removal Area cap will have a median diameter in range of 0.5 to 1.2 mm with an equivalent 0.022 – 0.027 Manning roughness coefficient.

Because there is no increase in surface roughness, there is no increase in flooding potential.

Request 4: The CPG's position is that the Flood Hazard Area rules (NJAC 7:13) are not applicable to the RM 10.9 Removal Action. Pursuant to Subchapter 2, Extent of Regulatory Authority, NJDEP authority applies when there is a "regulated activity." There are 6 criteria for a regulated activity. None of them apply to the RM 10.9 Removal Action for the following reasons.

1. "The alteration of topography through excavation, grading and/or placement of fill;"
 - The RM 10.9 Removal Action will result in no alteration of river topography, as shown on the signed and sealed engineering documents submitted under Request #2.
2. "The clearing, cutting and/or removal of vegetation in a riparian zone;"
 - CPG has specified that no vegetation will be cleared or removed in this Removal Action.
3. "The creation of impervious surface;"
 - The engineered cap will be constructed of only components
4. "The storage of unsecured material;"
 - No material is being stored at or near the RM 10.9 Removal Area
5. "The construction, reconstruction and/or enlargement of a structure;"
 - The definition of structure in 7.13-1.2 is "any assemblage of material by humans, including, but not limited to, a berm, bridge, bulkhead, building, cable, causeway, culvert, dam, dike, embankment, fence, jetty, levee, pavement, piling, pipe, post, railroad, retaining wall, roadway, stormwater management basin, tower, utility pole or wire." It is the CPG's position that a cap that provides no resultant change in topography or roughness does not qualify as a structure.
6. "The conversion of a building into a private residence or a public building."
 - There are no buildings associated with this project.

It is clear that the Flood Hazard rules do not apply to the construction of the cap, however, this work would still comply with all "permit requirements" listed in Subchapter 10 for regulated activities in a Flood Hazard Area, as follows.

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7.13-10.1 Requirements for a regulated activity in a channel

- The basic purpose of the cap cannot be accomplished without disturbance to the channel.
- Disturbance to the channel is minimized both in terms of quantity of sediment being removed and by replacement of that sediment with cap materials that will have a surface roughness equivalent to that of the material being removed.
- Cap materials have been designed to withstand velocities associated with bank-full flows, which will provide low-flow aquatic passage consistent with the original river bottom.
- All temporarily disturbed sections of the channel are being restored to pre-Removal Action conditions by maintaining channel topography and accommodating anticipated flow rates, velocity and substrate type.
- There is no existing aquatic vegetation in the Removal Area, and the cap will use materials suitable for re-establishment of aquatic habitat.
- This work is necessary to reduce ecological and human health risks present in the River.
- The construction equipment that will be used is designed for environmental dredging work.
- The dredging and capping activities will not cause or exacerbate bank erosion since equipment will approach the Removal Area from the river channel and the sediment is firm and stable.
- Silt curtains will be utilized to manage sediment migration during dredging and they will be removed after completion of the project.
- Spill control booms will be available on the work craft should any sheen be observed or released associated with the Removal Action.

7.13-10.2 Requirements for a regulated activity in a riparian zone

- No vegetation will be disturbed, removed or replanted as a result of this Removal Action other than the minimal cutting of overhanging tree branches near the banks of the river, where necessary to allow waterside access by the dredge rig.
- No railways or roadways or utility lines are being constructed or disturbed as a result of the Removal Action.
- No eroded banks or channels exist within the Removal Area.
- The Removal Action will result in no changes to regional stormwater discharges.
- No buildings are being constructed or renovated as a result of this Removal Action.
- No flood control projects are proposed or associated with the Removal Action.
- The Removal Action is not a water dependent development along tidal water.
- No work is within the upland areas and no upland vegetation in the riparian zone will be disturbed.

7.13-10.3 Requirements for a regulated activity within a floodway

- No structure above the river bottom will be constructed.
- There is no net fill (no rise in river bottom elevation).

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- The cross-sectional area of the channel open to flow will not be reduced as a result of the Removal Action.
- There will be no obstruction of the passage of floodwaters within the floodway.

7.13-10.4 Requirements for a regulated activity in a flood fringe

- The Removal Action is not occurring in, nor impacting the Flood Fringe.

7.13-10.5 Requirements for a regulated activity in or along a water way with fishery resources

- This portion of the Passaic River is not designated as a Category One waterway with exceptional fisheries resources.
- Activity will only occur outside of the migratory fish window.
- This portion of the Passaic River is designated as non-trout water.

7.13-10.6 Requirements for a regulated activity in a documented habitat or threatened or endangered species

- The Removal Area does not constitute a habitat for threatened or endangered species.

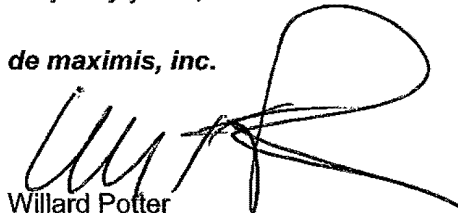
7.13-10.7 Requirements for a regulated activity in an area with acid producing soils

- The sediment that will be removed does not contain iron sulfide minerals.

If you have any questions please call Stan Kaczmarek or me at (908) 735-9315.

Very truly yours,

de maximis, inc.



Willard Potter
CPG Project Coordinator

cc: Stan Kaczmarek, *dmi*
William Hyatt, CPG Coordinating Counsel
Jay Nickerson, NJDEP
David Risilia, NJDEP
Roger McCready, CH2M Hill



VIA ELECTRONIC MAIL AND FEDEX

erin.black@ch2m.com

October 19, 2012

Erin Black
Contracts Manager
CH2MHill
6 Hutton Centre Drive
Suite 700
Santa Ana, CA 92707

RE: Request for Proposals – Letter of Interest
Lower Passaic River –
River Mile 10.9 Sediment Removal Project
(hereinafter the “LPR Project”)

Dear Ms. Black:

Clean Earth Dredging Technologies, LLC (“CEDT”) is in receipt of your October 5, 2012 request for expression of interest (“RFEI”) regarding the referenced LPR Project. CEDT appreciates CH2MHill’s interest in our dredged material handling and processing services and is pleased to respond affirmatively herein to your request.

As understood, the Lower Passaic River Study Area Cooperating Parties Group (“CPG”) will be issuing a Request for Proposals (“RFP”) on or around November 2012 for stabilization of dredged material associated with the Time Critical Removal Action (TCRA) at River Mile 10.9 on the Lower Passaic River located in Lyndhurst, New Jersey. Based on the information provided by CH2MHill, Clean Earth desires to be included on the final bidders list for the LPR Project RFP.

Clean Earth has internally and externally (by our outside compliance engineering consultant, Compliance Plus Services) peer reviewed the analytical summaries and data provided with the RFEI. **Our findings indicate that the material proposed to be dredged as part of the Project is acceptable at our dredged material processing facilities in Jersey City and Kearny, New Jersey (“DMPFs”) in accordance with our existing permits and approvals, and is consistent with our technical capabilities for handling, dewatering, stabilization and trans-shipment at the DMPFs.**

As of this time, CEDT anticipates it will have availability of its processing site(s) during the anticipated Project schedule of 2nd and 3rd Quarters of 2013.

Included as an attachment hereto is information responsive to requested items 1 through 4 of the "Letter of Interest Response Requirements" contained in your October 5, 2012 letter.

Thank you again for your interest in Clean Earth. Should you have any questions or require clarification of anything contained in this response, please do not hesitate to contact this office.

Very truly yours,

CLEAN EARTH DREDGING TECHNOLOGIES, LLC



Steven C. Sands
President

attachments

cc: Mr. Roger McCready/CH2M HILL
Mr. Jim Brinkman/CH2M HILL



Clean Harbors Environmental Services, Inc.
400 Arbor Lake Drive, Ste. B - 900
Columbia, SC 29223

803-691-3427
www.cleanharbors.com

April 11, 2013

Mr. William Potter
CPG Project Coordinator
Demaximis, Incorporated
186 Center Street
Clinton, New Jersey 08809

RE: Passaic River Project

Dear Mr. Potter,

This letter confirms that Clean Harbors Environmental Services, Inc (CHES) has reviewed available data and information regarding the sediment and decant water, that will be generated during dredging activities at the Lower Passaic River Mile 10.9 project, and finds that these wastes are acceptable at the designated and approved disposal facilities. The following facilities will be utilized:

- 1) Decant water: CHES Baltimore facility or CHES Connecticut facility;
- 2) Sediment: CHES Lone Mountain, Waynoka, OK;

CHES remains wholly committed to this endeavor and looks forward to a safe and successful project. If you have any questions concerning this correspondence, please do not hesitate to contact me directly at 803-691-3427 or, via email retallick.phillip@cleanharbors.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip G. Retallick". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Phillip G. Retallick

Senior Vice President for Compliance and Regulatory Affairs
Clean Harbors Environmental Services, Incorporated

"People and Technology Creating a Better Environment"